

State Conservationist decides to decertify, the decision will set forth the reasons for decertification, the period of decertification, and the scope of decertification. If the State Conservationist decides not to decertify the technical service provider, the technical service provider will be given written notice of that determination. The decertification determination will be based on an administrative record, which will be comprised of: the Notice of Proposed Decertification and supporting documents, and, if submitted, the technical service provider's written response and supporting documentation. Both a copy of the decision and administrative record will be sent promptly by certified mail, return receipt requested, to the technical service provider.

§ 652.36 Appeal of decertification decisions.

(a) Within 20 calendar days from the date of receipt of the State Conservationist's decertification determination, the technical service provider may appeal, in writing, to the Chief of NRCS. The written appeal must state the reasons for appeal and any arguments in support of those reasons. If the technical service provider fails to appeal, the decision of the State Conservationist is final.

(b) Final decision. Within 30 calendar days of receipt of the technical service provider's written appeal, the Chief or his designee, will make a final determination, in writing, based upon the administrative record and any additional information submitted to the Chief by the technical service provider. The decision of the Chief, or his designee, is final and not subject to further administrative review. The Chief's determination will include the reasons for decertification, the period of decertification, and the scope of decertification.

§ 652.37 Period of decertification.

The period of decertification will not exceed three years in duration and will be decided by the decertifying official, either the State Conservationist or Chief, as applicable, based upon their weighing of all relevant facts and the seriousness of the reasons for decerti-

fication, mitigating factors, if any, and the following general guidelines:

(a) For failures in the provision of technical service for which there are no mitigating factors, *e.g.*, no remedial action by the technical service provider, a maximum period of three years decertification;

(b) For repeated failures in the provision of technical assistance for which there are mitigating factors, *e.g.*, the technical service provider has taken remedial action to the satisfaction of NRCS, a maximum period of one to two years decertification; and

(c) For a violation of Certification Agreement terms, *e.g.*, failure to possess technical competency for a listed practice, a period of one year or less, if the technical service provider can master such competency within a year period.

§ 652.38 Scope of decertification.

(a) When the technical service provider is a private sector entity or public agency, the decertifying official may decertify the entire organization, including all the individuals identified as authorized to provide technical services under the auspices of such organization. The decertifying official may also limit the scope of decertification, for example, to one or more specifically named individuals identified as authorized to provide technical services under the organization's auspices or to an organizational element of such private sector entity or public agency. The scope of decertification will be set forth in the decertification determination and will be based upon the facts of each decertification action, including whether actions of particular individuals can be imputed to the larger organization.

(b) In cases where specific individuals are decertified only, an entity or public agency must file within 10 calendar days an amended Certification Agreement removing the decertified individual(s) from the Certification Agreement. In addition, the entity or public agency must demonstrate that, to the satisfaction of the State Conservationist, the entity or public agency has taken affirmative steps to ensure that the circumstances resulting in decertification have been addressed.